

III, Species IV, of which at least claims 1-5, 7, 8 and 15-22 are readable thereon.

In the election requirement, the Examiner set forth a requirement to restrict the claimed invention to one of eight species of each of three groups of distinct species.

Applicant respectfully traverses this basis for election. Applicant emphasizes that the Examiner did not properly set forth and apply the Unity of Invention standard pursuant to PCT Rule 13.1. The Examiner's basis for the restriction is improper for the following reasons: first of all, the Examiner has failed to properly construe and consider the claims under the "special technical feature" standard and, furthermore, based upon this standard, the election is improper.

The standard, as described clearly in M.P.E.P. sections 1850 and 1893.03(d), is whether the groups can be read to have a common technical relationship, i.e., whether a special technical feature is common to the groups. Accordingly, if each of the groups can be read to have one or more common special technical features or relationships, then they simply cannot be restricted.

In this case, the technical relationship or technical features common to all of the claims are at least the features recited in claims 1-3 which the Examiner must acknowledge as being generic. Applicant emphasizes that each of the features noted in the species groups have in common at least each of the features recited in claims 1-3. Thus, it is submitted that the Examiner has disregarded the claim language in an attempt to support the restriction requirement that is otherwise clearly improper under PCT Rules 13.1 and 13.2.

Further, M.P.E.P. 1850 paragraph "A" makes clear that dependent claims cannot be separated from Independent claims because the "unity of invention" standard must be evaluated on the basis of independent claims only. Accordingly, since the only independent claim is claim 1 and since the independent claim is clearly generic to each of the species, none of the claims can be properly restricted as species under the unity of invention standard. Applicant emphasizes that any species election, much less, one that is based upon the specification disclosure, figures or dependent claims, is an improper basis for restriction under the unity of invention standard.

Accordingly, Applicant submits that under the "unity of invention" standard, the Examiner has set forth no proper basis for restricting the invention to any of the groups or species.

For all these reasons, and consistent with the office policy as set forth in M.P.E.P. §§ 803, 1850 and 1893.03(d), Applicant respectfully requests that the Examiner reconsider the position taken in the above-mentioned Official Action and withdraw the election requirement in the present application. Accordingly, the Examiner's restriction requirement is believed to be entirely improper and inconsistent with current USPTO guidelines, and has been traversed for the reasons set forth above.

Nevertheless, in order to be fully responsive, Applicant has elected with traverse the invention defined by the Examiner as Group I, Species "I", Group II, Species IV, and Group III, Species IV, directed of which at least claims 1-5, 7, 8 and 15-22 are readable thereon.

P27775.A07

Authorization is hereby given to charge any fees necessary for consideration of this paper to deposit account 19-0089.

Respectfully submitted,  
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June 4, 2007  
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